

DETAILED ACTION

Response to Amendment

The amendment to the specification and the amendments to the drawings filed on 02 April 2010 do not comply with the requirements of 37 CFR 1.121(b) and (d), respectively, because:

(1) the Title of the Invention has not been amended correctly because it is old amendment format to request that the title be replaced with a new title and since the Title of the Invention is considered to be a paragraph for amendment purposes, Applicant must show the markings as is required by 37 CFR 1.121(b)(1)(ii);

(2) Applicant cannot delete by placing single brackets around five or fewer consecutive characters as was done in the first line of paragraph no. [0039] and the 13th line of paragraph no. [0041]; and

(3) Applicant has fails to comply with 37 CFR 1.121(d), the last sentence in that Applicant has not explained all changes to the drawings shall, in detail, in either the drawing amendment or remarks section of the amendment paper .

Amendments to the specification filed on or after July 30, 2003 must comply with 37 CFR 1.121(b) and (d) which state, as follows:

(b) *Specification.* Amendments to the specification, other than the claims, computer listings (§ 1.96) and sequence listings (§ 1.825), must be made by adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification, in the manner specified in this section.

(1) *Amendment to delete, replace, or add a paragraph.* Amendments to the specification, including amendment to a section heading or the title of the invention which are considered for amendment purposes to be an amendment of a paragraph, must be made by submitting:

Art Unit: 3635

(i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a paragraph with one or more replacement paragraphs, or add one or more paragraphs;

(ii) The full text of any replacement paragraph with markings to show all the changes relative to the previous version of the paragraph. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strikethrough cannot be easily perceived;

(iii) The full text of any added paragraphs without any underlining; and

(iv) The text of a paragraph to be deleted must not be presented with strike-through or placed within double brackets. The instruction to delete may identify a paragraph by its paragraph number or include a few words from the beginning, and end, of the paragraph, if needed for paragraph identification purposes.

(2) *Amendment by replacement section.* If the sections of the specification contain section headings as provided in § 1.77(b), § 1.154(b), or § 1.163(c), amendments to the specification, other than the claims, may be made by submitting:

(i) A reference to the section heading along with an instruction, which unambiguously identifies the location, to delete that section of the specification and to replace such deleted section with a replacement section; and;

(ii) A replacement section with markings to show all changes relative to the previous version of the section. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived.

(3) *Amendment by substitute specification.* The specification, other than the claims, may also be amended by submitting:

(i) An instruction to replace the specification; and

(ii) A substitute specification in compliance with §§ 1.125(b) and

(c).

(4) *Reinstatement of previously deleted paragraph or section.* A previously deleted paragraph or section may be reinstated only by a subsequent amendment adding the previously deleted paragraph or section.

Art Unit: 3635

(5) *Presentation in subsequent amendment document.* Once a paragraph or section is amended in a first amendment document, the paragraph or section shall not be represented in a subsequent amendment document unless it is amended again or a substitute specification is provided.

...
(d) *Drawings:* One or more application drawings shall be amended in the following manner: Any changes to an application drawing must be in compliance with § 1.84 and must be submitted on a replacement sheet of drawings which shall be an attachment to the amendment document and, in the top margin, labeled "Replacement Sheet". Any replacement sheet of drawings shall include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is amended. Any new sheet of drawings containing an additional figure must be labeled in the top margin as "New Sheet". All changes to the drawings shall be explained, in detail, in either the drawing amendment or remarks section of the amendment paper.

(1) A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be included. The marked-up copy must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change to the drawings.

(2) A marked-up copy of any amended drawing figure, including annotations indicating the changes made, must be provided when required by the examiner.

However, rather than send out a Notice of Non-Compliant Amendment and in order to advance prosecution, the examiner is simply not entering the specification amendments nor the drawing amendments filed in the amendment document on 02 April 2010 and is repeating her specification and drawing objections below.

Drawings

The drawings are objected to because:

(1) Fig. 4 is an exploded view and should have its separated parts embraced by a bracket in accordance with 37 CFR 1.84(h)(1);

(2) Fig. 4, the dashed lines leading from the cotter pin (56) to the external device (58) to the coupler (64) should be a projected line (i.e., line-dot-line) in accordance with

the Manual of Patent Examining Procedure or MPEP, section 608.02 IX, entitled "Drawing Symbols";

(3) Fig. 4, the bracket adjacent reference numeral "60", the bracket adjacent reference numeral "62", and the bracket adjacent reference numeral "44" should be changed to a lead line ending in an arrow in accordance with 37 CFR 1.84(r)(1);

(4) Fig. 5, the bracket adjacent reference numeral "60" and the bracket adjacent reference numeral "62" should be changed to a lead line ending in an arrow in accordance with 37 CFR 1.84(r)(1);

(5) Fig. 6, the bracket adjacent reference numeral "60" and the bracket adjacent reference numeral "62" should be changed to a lead line ending in an arrow in accordance with 37 CFR 1.84(r)(1);

(6) Fig. 7, the bracket adjacent reference numeral "60" should be changed to a lead line ending in an arrow in accordance with 37 CFR 1.84(r)(1);

(7) Fig. 9, the bracket adjacent reference numeral "60" and the bracket adjacent reference numeral "62" should be changed to a lead line ending in an arrow in accordance with 37 CFR 1.84(r)(1); and

(8) Fig. 10 is an exploded view and should have its separated parts embraced by a bracket in accordance with 37 CFR 1.84(h)(1).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

Art Unit: 3635

number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

(1) paragraph no. [0036], line 9, it is believed that reference numeral "62" should be changed to reference numeral --62'--;

(2) paragraph no. [0036], line 11, it is believed that reference numerals "60" and "62" should be changed to reference numerals --60'-- and --62'--, respectively;

(3) paragraph no. [0036], line 12, it is believed that reference numeral "60" should be changed to reference numeral --60'--;

(4) paragraph no. [0036], line 13, it is believed that reference numeral "62" should be changed to reference numeral --62'--;

(5) paragraph no. [0037], line 3, it is believed that reference numeral "60" should be changed to reference numeral --60'--;

(6) paragraph no. [0037], line 4, it is believed that reference numeral "30A" should be changed to reference numeral --30A'--;

(7) paragraph no. [0037], line 6, it is believed that reference numeral "60" should be changed to reference numeral --60'--;

(8) paragraph no. [0038], line 4, it is believed that reference numeral "60" should be changed to reference numeral --60'--;

(9) paragraph no. [0039], it is believed that "Figure 88" should be changed to --Fig. 8--;

(10) paragraph no. [0041], line 9, it is believed that both occurrences of the reference numeral "42" should be changed to reference numeral --42'--;

(11) paragraph no. [0041], line 10, the examiner notes that reference numeral "90" has already been used to represent "edges" of the couplers "64" in the second embodiment and therefore, it is suggested that the third planar member be changed to reference numeral --91--;

(12) paragraph, no. [0041], line 11, it is believed that reference numeral "30" should be changed to reference numeral --30'--;

(13) paragraph no. [0041], line 11, the examiner notes that reference numeral "90" has already been used to represent "edges" of the couplers "64" in the second embodiment and therefore, it is suggested that the third planar member be changed to reference numeral --91--;

(14) paragraph, no. [0041], line 13, it is believed that reference numeral "30" should be changed to reference numeral --30"--;

(15) paragraph, no. [0041], line 14, it is believed that reference numeral "30" should be changed to reference numeral --30"--;

(16) paragraph no. [0041], line 15, it is believed that both occurrences of the reference numeral "42" should be changed to reference numeral --42"--;

(17) paragraph, no. [0041], line 16, it is believed that reference numeral "30" should be changed to reference numeral --30"--;

(18) paragraph, no. [0041], line 17, it is believed that reference numeral "40" should be changed to reference numeral --40"--;

(19) paragraph, no. [0041], line 20, it is believed that reference numeral "60"" should be changed to reference numeral --60"--;

(20) paragraph, no. [0041], line 21, it is believed that reference numeral "42" should be changed to reference numeral --42"--;

(21) paragraph, no. [0041], line 21, it is believed that reference numeral "40' "" should be changed to reference numeral --40"--;

(22) paragraph, no. [0041], line 25, it is believed that reference numeral "42" should be changed to reference numeral --42"--;

(23) paragraph, no. [0041], line 26, it is believed that reference numeral "42" should be changed to reference numeral --42"--; and

(24) paragraph, no. [0041], line 28, it is believed that reference numeral "42" should be changed to reference numeral --42"--.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 52-57 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 52, line 2, the recitation of “the surface” is vague, indefinite, and confusing as lacking antecedent basis as no surface has been previously introduced.

Claim 52, lines 5-7, the recitation of “a first planar member disposed adjacent to an upper surface of the deck and having at least one dimension larger than the opening” is vague, indefinite, and confusing as not being clear.

From Fig. 3, it appears that it is the second planar member (72) that is adjacent the first surface (30A) of the deck (30), not the first planar member (68). While Applicant is allowed to be his own lexicographer, he is not allowed to call a structure one thing in the specification, and then use a completely opposite terminology in the claims.

Further, the first planar member (68) does not appear to have at least one dimension larger than the opening (52).

The recitation of “an upper surface” appears to lack antecedent basis because it is not clear if this is the same structure as the “surface” in line 2.

Finally, it is not clear if Applicant is claiming an anchor device per se or if Applicant is claiming an anchor device in combination with the deck in which the anchor device is installed.

Claim 52, lines 9-10, the recitation of “said anchor body positioned at least partially within said opening so that a notch in the first lateral end of the first body portion receives the edge of the deck” is vague, indefinite, and confusing as not being clear.

From Fig. 4, it appears that the second body portion (62) includes the second planar member (72) and the lower member (74). The notch (50) is in a lateral end of the second planar member which is part of the second body portion (62), not the first body portion (60). While Applicant is allowed to be his own lexicographer, he is not allowed to call a structure one thing in the specification, and then use a completely opposite terminology in the claims.

Claim 52, line 11-12, the recitation of “a second planar member having the notch formed therein, said second planar member extending adjacent to the edge and adjacent to a lower surface of the deck” is vague, indefinite, and confusing as not being clear.

From Fig. 4, it is clear that the second planar member (72) does not have the notch (50) therein. Rather, it is the lower member (74) which has the notch (50) therein. While Applicant is allowed to be his own lexicographer, he is not allowed to call a structure one thing in the specification, and then use a completely opposite terminology in the claims.

Further, the second planar member does not extend adjacent to a lower surface of the deck (30B), but rather extends adjacent to a lower surface of the first surface (30A).

Claim 52, lines 13-14, the recitation of “said second body portion comprising a coupler extending outward from the opening” is vague, indefinite, and confusing as not being clear.

From Fig. 4, it is clear that it is not the second body portion (62) which comprises the couplers (64, 64), but rather it is the first body portion (60) which comprises the couplers (64, 64). While Applicant is allowed to be his own lexicographer, he is not allowed to call a structure one thing in the specification, and then use a completely opposite terminology in the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 52-57 are rejected under 35 U.S.C. 102(b) as being anticipated by SPECKTOR (U.S. Patent No. 4,138,877 cited on IDS filed 30 May 2007).

As to claim 52 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), SPECKTOR discloses an anchor device (apparatus 100 in Figs. 3 and 8 or apparatus in Figs. 6, 7, and 9) “for coupling an external device to a deck” (the structure of SPECKTOR is capable of performing the recited intended use within quotation marks), said anchor device (apparatus) being received within an opening (152) of the deck, said opening (152) having an edge of the surface (150) therein, said anchor device (apparatus) comprising:

an anchor body (at least 54 and 70) comprising a first body portion and a second body portion,

said first body portion having a structure including a first planar member (bottom plate of 50) disposed adjacent to an upper surface (150) of the deck and having at least one dimension larger than the opening (152), said first body portion having a first lateral end and a second lateral end spaced longitudinally apart from the first lateral end;

said anchor body (at least 54 and 70) positioned at least partially within said opening (152) so that a notch (notch in 70) in the first lateral end of the first body portion receives the edge of the deck; and

a second planar member (70) having the notch formed therein, said second planar member (70) extending adjacent to the edge and adjacent to a lower surface of the deck,

said second body portion comprising a coupler (56/58) extending outward from the opening (152), said coupler (56/58) positioned adjacent to the second lateral end and opposite the first lateral end, said coupler (56/58) coupling to the external device.

As to claim 53 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), SPECKTOR discloses the anchor device of claim 52 as discussed above, and SPECTOR also discloses that the structure comprises a unitary structure.

As to claim 54 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), SPECKTOR discloses the anchor device of claim 52 as discussed above, and SPECTOR also discloses that the notch comprises a generally U-shape notch.

As to claim 55 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), SPECKTOR discloses the anchor device of claim 52 as discussed above, and SPECTOR also discloses that the coupler (56/58) comprises a first coupler (56) and a second coupler (58).

As to claim 56 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), SPECKTOR discloses the anchor device of claim 55 as discussed above, and SPECTOR also discloses that said first coupler (56) and said second coupler (58) have a respective first coupling hole (86) and a second coupling hole (86) therethrough.

As to claim 57 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), SPECKTOR discloses the anchor device

Art Unit: 3635

of claim 56 as discussed above, and SPECTOR also discloses that said first coupling hole (86) and said second coupling hole (86) are coaxial.

Response to Arguments

Applicant's arguments with respect to claims 52-57 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Friday, 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571)-272-6777. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gay Ann Spahn/
Gay Ann Spahn, Primary Examiner
June 9, 2010